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1 - EPA says it's satisfied appropriate steps have been taken regarding ASARCO demolition

KVIA El Paso, 04/11/2013

<http://www.kvia.com/news/EPA-says-it-s-satisfied-appropriate-steps-have-been-taken-regarding-ASARCO-demolition/-/391068/19712898/-/2odbarz/-/index.html>

The Environmental Protection Agency released a statement on Thursday morning stating it was satisfied with the precautions being taken by the ASARCO trust regarding with the smokestacks demolition on Saturday. El Paso's ASARCO facility operated as a lead smelter and refinery from 1887 to the late 1990s. The smelter has been inoperative for several years, with negotiations and planning for cleanup of the site occurring since then. In December 2009, ASARCO signed an agreement guiding the course of the cleanup, which will be lead by the Texas Commission on Environmental Quality.

2 - Doomed smokestacks symbolize Asarco's legacy

Las Cruces Sun-Times, 04/12/2013

http://www.lcsun-news.com/las_cruces-news/ci_23009283/doomed-smokestacks-symbolize-asarcos-legacy

The demolition of Asarco's smokestacks on Saturday will signal the end of an era that leaves behind it a mixed legacy of economic prosperity and environmental degradation. Thousands of border residents are expected to watch the distinctive landmarks tumble down, including former Asarco workers Miguel Beltran and Charlie Rodriguez.

3 - Officials say 4 families can return home in Mayflower

THV 11, 04/11/2013

<http://www.thv11.com/news/article/259527/2/Officials-say-4-families-can-return-home-in-Mayflower>

Two weeks after Arkansas' largest oil spill, trucks still line Starlite Rd. in Mayflower. Officials announced for a second time on Thursday the reopening of four homes and said eight or nine more could open in the next few days. "There's going to be additional work in the neighborhood for a little bit longer until it all gets completed, and so we're phasing it so that its safely done," said Nick Brescia with the EPA. Brescia said over the last two weeks, air quality samples have consistently improved.

4 - Arkansas Oil Spill Video: Raw Aerial Footage Shows Extent Of Exxon's Pegasus Pipeline Spill

The Huffington Post, 04/11/2013

http://www.huffingtonpost.com/2013/04/11/arkansas-oil-spill-video-mayflower-exxon_n_3063278.html?view=screen

Stunning aerial footage has emerged of ExxonMobil's Pegasus pipeline oil spill in Mayflower, Arkansas. A five-minute long video was posted to YouTube on April 2, three days after a flood of diluted bitumen surged from a broken tar sands pipeline. The video was taken by videojournalist Adam Randall sometime before the Federal Aviation Administration placed a No-Fly Zone over the neighborhood.

5 - Environmental Questions Take Back Seat at Confirmation Hearing for E.P.A. Nominee

The New York Times, 04/11/2013

http://www.huffingtonpost.com/2013/04/11/arkansas-oil-spill-video-mayflower-exxon_n_3063278.html?view=screen

Most of the biggest challenges facing the Environmental Protection Agency — climate change, major new regulations on power plant emissions, biofuels production and enforcement of clean air and water laws — were virtually absent from Thursday's confirmation hearing for President Obama's nominee to head the agency, Gina McCarthy. Instead, Republicans on the Senate Environment and Public Works Committee repeatedly returned to relatively arcane disputes over e-mail accounts used by top officials at the agency, whether the department had made public all the research data used in writing past regulations and whether it had pursued a litigation strategy that bypassed state environmental officials.

6 - Despite Tough Questions, GOP Expects Senate To Confirm EPA's McCarthy

InsideEPA, 04/11/2013

<http://insideepa.com/201304112430763/EPA-Daily-News/Daily-News/despite-tough-questions-gop-expects-senate-to-confirm-epas-mccarthy/menu-id-95.html>

Republicans say they expect the Senate to confirm Gina McCarthy, the head of EPA's air office and the Obama administration's nominee to lead the agency, despite their concerns over the agency's lack of transparency and the cost of the agency's climate change and other regulatory policies. "I've heard from some that you will be a distinct change from your predecessor. That you are data driven and practical," Sen. Jeff Sessions (R-AL) told McCarthy at her April 11 confirmation hearing before the Senate environment committee.

7 - Buck Creek watershed effort earns Texas Environmental Excellence Award

AgriLife Today, 04/11/2013

<http://today.agrilife.org/2013/04/11/buck-creek-watershed-effort-earns-texas-environmental-excellence-award/>

A 10-year effort by Texas A&M AgriLife Research on the Buck Creek watershed will end this month and be recognized with a Texas Commission on Environmental Quality Texas Environmental Excellence Award for agriculture in May. Buck Creek was listed as being impaired by the Texas Commission on Environmental Quality due to elevated bacteria levels in 2000 after it was determined the stream did not meet all Texas Surface Water Quality Standards, according to Phyllis Dyer, AgriLife Research's Buck Creek watershed coordinator. In 2004, the Texas Water Resources Institute Buck Creek Watershed Partnership was funded by the Texas State Soil and Water Conservation Board through federal Clean Water Act 319 funds by the U.S. Environmental Protection Agency, Dyer said.

8 - EPA proposes loosening natural-gas storage standards

The Hill, 04/11/2013

<http://thehill.com/blogs/regwatch/energyenvironment/293343-epa-proposes-loosening-natural-gas-storage-standards->

After pushback from outside groups, the federal government is proposing to relax its rules on tanks used to store liquids at oil and natural-gas production sites. In a proposal to be published in the Federal Register on Friday, the Environmental Protection Agency (EPA) is offering to loosen storage vessel standards that are part of year-old oil-and-gas regulations.

9 - Environmental Groups Will Consider Lawsuit If EPA Misses Deadline for Power Plant Rule

BNA Daily Environment Report, 04/12/2013

http://esweb.bna.com/eslw/1245/split_display.adp?fedfid=30345943&vname=denotallissues&jd=a0d7e8m7n5&split=0

Environmental groups will be considering filing a lawsuit to compel the Environmental Protection Agency to issue its final carbon dioxide performance standard for new fossil fuel-fired power plants if the agency misses the statutory

April 13 deadline, as expected. David Doniger, policy director of the Natural Resources Defense Council's Climate Center, told BNA April 11 that environmental groups are expected to begin discussions on filing a lawsuit in federal District Court after the April 13 deadline passes.

10 - House GOP Willing To Revise Coal Ash Bill To Reflect EPA Calls For Clarity

Inside EPA, 04/11/2013

<http://insideepa.com/201304112430701/EPA-Daily-News/Daily-News/house-gop-willing-to-revise-coal-ash-bill-to-reflect-epa-calls-for-clarity/menu-id-95.html>

House GOP lawmakers are signaling they may be open to revising legislation aimed at circumvented EPA's pending coal ash disposal rule with state-crafted permit programs, after the agency's top waste official raised concerns that several provisions of the bill need greater clarity -- such as how much oversight power EPA would have under the bill.



EPA says it's satisfied appropriate steps have been taken regarding ASARCO demolition

[Leonard Martinez](#)

POSTED: 11:59 AM MDT Apr 11, 2013 UPDATED: 03:19 PM MDT Apr 11, 2013



A closer look at preparations for the demolition of the two remaining smokestacks.

EL PASO, Texas -

The Environmental Protection Agency released a statement on Thursday morning stating it was satisfied with the precautions being taken by the ASARCO trust regarding with the smokestacks demolition on Saturday.

El Paso's ASARCO facility operated as a lead smelter and refinery from 1887 to the late 1990s. The smelter has been inoperative for several years, with negotiations and planning for cleanup of the site occurring since then. In December 2009, ASARCO signed an agreement guiding the course of the cleanup, which will be lead by the Texas Commission on Environmental Quality.

On April 5, 2013, the Trustee released the final chimney demolition plan for the former ASARCO smelter site. The final plan included consideration of comments from EPA and TCEQ. Useful information, along with a copy of the final demolition plan, is available at the [Recasting the Smelter website](#).

"EPA has reviewed the Trustee's demolition plan for stacks at ASARCO," said Ron Curry, EPA regional administrator. "We believe the plan includes the appropriate steps necessary to be protective of both the environment and people living in the area. EPA will have people on-site before, during and after the demolition. Following the demolition, EPA and State officials will evaluate compliance with the plan."

Congressman Beto O'Rourke, who has written two letters to the EPA expressing his concerns, responded to the EPA's statement on Thursday afternoon.

"In the last several weeks, I have been in regular contact with the Environmental Protection Agency (EPA), including the Region 6 Administrator and EPA officials in Washington, to address concerns surrounding the ASARCO demolition and site remediation," O'Rourke said in a statement. "My main priority is protecting public health, ensuring the safe remediation of the site and protecting the adjacent Rio Grande River. I believe the EPA shares these priorities and I am pleased that they have answered the questions raised by the community and my office. They have expressed to me their commitment to a safe and complete remediation of the site and to assuring that all funds in the trust are used for that purpose going forward. I plan to work with the EPA to make sure they fulfill their unique obligation as a beneficiary of the trust."

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Doomed smokestacks symbolize Asarco's legacy

By Diana Washington Valdez \ El Paso Times El Paso Times

Posted:

lcsun-news.com

>> Photos: Asarco now and then - demolition preparation, archive photos

The demolition of Asarco's smokestacks on Saturday will signal the end of an era that leaves behind it a mixed legacy of economic prosperity and environmental degradation.

Thousands of border residents are expected to watch the distinctive landmarks tumble down, including former Asarco workers Miguel Beltran and Charlie Rodriguez.

"I was fortunate to have worked at Asarco," said Beltran, 85, a boilermaker and welder at the plant from 1970 to 1995. "Thanks to Asarco, I raised seven children, one who's a doctor in Houston. I bought my house, a car and a truck, and I lived in the same home for 40 years. During a regular week, I could make \$500, and up to \$900 a week with overtime. Those were great wages for El Paso."

Beltran came to El Paso from California and knocked on Asarco's doors when he went looking for a job. "I was told you had to have a relative working at Asarco to get in, but I lucked out when I applied. They said they had an opening for a welder, and that's what I was, a welder."

The former smelter worker said he disagrees with those who blame Asarco for their health problems.

"The negative things that are being said about Asarco are myths," Beltran said. "I am in very good health for my age -- no cancer, no nothing -- and I think it's because I used the safety goggles, hard hat and masks that they gave us to wear. I worked all over the plant and went in on any day and at any time they asked me to show up. I don't understand some of the ex-workers who say that Asarco made them sick."

For more than a century, the lives of thousands of border residents were tied to the smelter's fortunes.

During the 1990s, before the workforce reduction, the smelter had employed as many as 1,000 people.

Rodriguez, 63, started his career with Asarco in his early 20s, beginning in 1972 until the 1999 layoffs. His father, brother and uncle also worked at the plant. At first, he was a laborer, feeding conveyor belts with copper ore that was on its way to the furnace. He later became an electrician, and he finished out his work for Asarco as a maintenance electrician.

"I and others are sick, especially those who come from the younger generation," Rodriguez said. "My brother, Richard, also worked there, and he was 58 years old when he died from cancer. I'm sick, too. I know of many ex-Asarco workers who died prematurely. We were very loyal workers, but the company was not loyal to us. For example, they didn't tell us about the (unpermitted) hazardous waste from Encycle they were incinerating at the El Paso plant."

Activists including Heather Murray and Bill Addington supported shutting down the plant, alleging that it was the source of environmental hazards for residents who lived near the smelter.

Murray and Addington said the hazards came from arsenic and lead from Asarco's smelting process that

polluted the air and soil, as well as from the unauthorized incineration of military hazardous waste.

Asarco officials always denied that the plant is responsible for the ailments that ex-workers are experiencing. They contended that the heavy metals came from pesticides, paint and leaded gasoline, and not from the plant.

Robert Puga, the trustee for the site cleanup, said on Thursday that none of the military hazardous waste that was incinerated without a permit in the past at Asarco has turned up in tests conducted during remediation work. Puga will oversee Saturday's historic demolitions.

The end of the smelter

Most agree that the end for Asarco began in 1999 when a decline in copper prices worldwide forced the company to lay off 370 workers in El Paso and shutter smelting operations. The company kept a skeleton crew at the site while it waited for economic conditions to improve.

Instead, an intense battle followed to shut down the smelter. Asarco had its own internal disputes, and due to growing environmental liabilities from all its U.S. operations, the company filed for Chapter 11 bankruptcy. In 2009, it announced that it would shut down the El Paso smelter for good.

Former state Sen. Eliot Shapleigh, who spearheaded the community's battle to close the smelter, was unavailable for comment.

The first of Asarco's environmental woes in El Paso began in the 1970s after medical tests confirmed high levels of lead in the blood of many children in Smeltertown, a community along the Rio Grande of Mexican-Americans and Mexicans who worked at the plant.

Newspaper archives indicate that El Paso city officials moved 120 families out of Smeltertown in 1973 and razed the community. The Smeltertown Cemetery adjacent to the main plant site remains intact.

"In the spring of 1970, the city of El Paso filed a \$1 million suit, later joined by the State of Texas, charging Asarco with violations of the Texas Clean Air Act," according to the Texas State Historical Association. "In December 1971 the El Paso City-County Health Department reported that the smelter had emitted 1,012 metric tons of lead between 1969 and 1971 and found that the smelter was the principal source of particulate lead within a radius of a mile."

In 1990, the company invested about \$81 million to modernize its smelting technology, but time showed that it was not enough to fend off mounting environmental complaints from residents, politicians and the federal Environmental Protection Agency.

"Under the agreements reached in the bankruptcy court Asarco is relieved of all the liabilities it incurred during its 100 years of operation," according to a report by Lin Nelson and Anne Fischel, academics at Evergreen State College in Washington state. "This means that future costs to human health and the environment stemming from the impacts of Asarco's 100 years of operations will be borne by workers, families, communities and ultimately, by U.S. taxpayers."

Pancho Villa

Francisco "Pancho" Villa, one of the major leaders of the 1910 Mexican Revolution, might have been Asarco's

most famous employee.

In a 2007 column for the El Paso Times, historian Leon Metz said that Villa went to work as a laborer for Asarco on Jan. 19, 1913.

"Two months later, on March 7, Villa and six laborers working at Asarco É on horseback forded the Rio Grande and headed south. (Each) toted a sack of flour, two small packages of coffee, some salt and small arms, but little ammunition," Metz said. "Within weeks, Villa struck a mining camp at Boquilla, Chihuahua," and the revolution was under way.

Other historical accounts offer conflicting stories about Villa's association with Asarco. One maintains that Asarco initially supported Villa in order to protect its mining operations in Mexico. Another account blames the revolutionary hero for the execution-style deaths of 18 American employees of Asarco near Santa Ysabel, Chihuahua. Villa denied ordering his men to kill the Americans.

Some big names are also associated with Asarco's company history, including legendary American and Mexican industrialists.

Under Robert Safford Towne, the company began operating in El Paso in 1881 with a 100-foot chimney, smelting ore from Mexican mines. A plaque at the plant's main office, which will be spared from destruction, states that Asarco started with 250 workers when the smelter used to be located near the Union Depot.

The Kansas City Smelting and Refining Co., owned by August Meyer, provided additional backing for the smelter and its expansion. Later, the American Smelting and Refining Co., founded in part by William Rockefeller (brother of Standard Oil's John D. Rockefeller), and later run by the Guggenheim dynasty, took over Kansas City Smelting and Refining.

In modern times, investors and owners who had a stake in Asarco included Grupo Mexico's Carlos Slim, the world's richest man, and the Carlyle Group, a global conglomerate associated with former President George H.W. Bush, according to newspaper archives.

At one time, Asarco was considered to be Mexico's largest private employer. It had several operations south of the border, and in other U.S. states and countries.

A 1974 U.S. diplomatic cable released by WikiLeaks refers to the "Mexicanization of Asarco," pointing to a period when prominent Mexican businesses began investing in it heavily and eventually bringing Asarco into the fold of Grupo Mexico, which currently is in good financial shape.

Richard Adauto, an official at the University of Texas at El Paso, found out after some research that Asarco had donated land to the then-Texas Western College on at least two occasions.

Ironically, it was soil testing by graduate students from UTEP and New Mexico State University that gave impetus to new uneasiness over the possibility that Asarco might restart its copper smelting operations.

This led to hearings, the EPA's involvement, and Asarco agreeing, among other things, to remove lead and arsenic contamination from the soil of about 1,000 outdoor properties in West and South El Paso.

On Saturday, both the good and the bad of Asarco's El Paso smelter will be buried when its once-mighty

stacks are reduced to rubble.

Diana Washington Valdez may be reached at dvaldez@elpasotimes.com; 546-6140.

Print - Officials say 4 families can return home in Mayflower | todaysthv.com

thv11.com

7:18 PM, Apr 11, 2013

MAYFLOWER, Ark. (KTHV) - Two weeks after Arkansas' largest oil spill, trucks still line Starlite Rd. in Mayflower. Officials announced for a second time on Thursday the reopening of four homes and said eight or nine more could open in the next few days.

"There's going to be additional work in the neighborhood for a little bit longer until it all gets completed, and so we're phasing it so that its safely done," said Nick Brescia with the EPA.

Brescia said over the last two weeks, air quality samples have consistently improved.

Crews, meanwhile, cleared the soil around the pipeline and located the 22-inch long rupture. Exxon officials said they must remove the broken section for analysis to figure out how the spill began.

"We got to get the oil out. We do have approval from the DOT to proceed with the excavation of the pipeline, so we anticipate the next few days," said Karen Tyrone, ExxonMobil Operations Director.

Tyrone said the severe weather Wednesday did not cause the oil to spread.

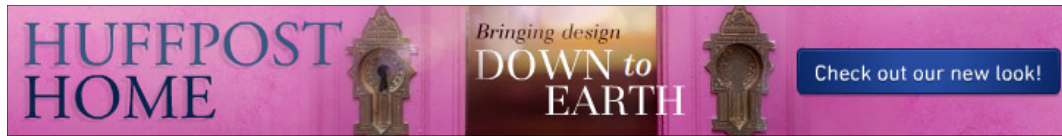
The Arkansas Department of Environmental Quality reported levels of Benzene, a carcinogenic, within a cove area, but water quality seems to be improving.

"We've seen no constituents of concern in the lake itself, and the levels we've seen in the cove have significantly reduced from the first samples that were taken," said Ryan Benefield, ADEM.

Exxon officials added that they are also working on addressing home values for effected residents.

"And the concern of those homeowners is very real. We are working through a program for them that includes up to home purchase," said Tyrone.

Homeowners do have the option of staying at a hotel on Exxon's expense until the cleanup is finished.



April 12, 2013

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POST GREEN

Arkansas Oil Spill Video: Raw Aerial Footage Shows Extent Of Exxon's Pegasus Pipeline Spill

The Huffington Post | By Nick Visser
Posted: 04/11/2013 3:57 pm EDT

[Stunning aerial footage has emerged](#) of ExxonMobil's Pegasus pipeline [oil spill in Mayflower, Arkansas](#).

A five-minute long video was posted to YouTube on April 2, three days after a flood of diluted bitumen surged from a broken tar sands pipeline. The video was taken by videojournalist Adam Randall sometime before the [Federal Aviation Administration placed a No-Fly Zone over the neighborhood](#).

The extent of the spill is still unknown, but officials are saying thousands of barrels gushed from [a 2-inch-wide, 22-foot-long gash](#). More than 22,000 barrels of oily water and 2,000 cubic yards of oiled debris have already been recovered.

"The pipeline rupture is substantially larger than many of us initially thought," Dustin McDaniel, Arkansas Attorney General, told reporters on Wednesday after he [subpoenaed more than 12,500 pages of documents](#) from Exxon related to the spill.

Reports have emerged that [journalists have been barred from the site](#) and threatened with arrest. A video posted to YouTube was also [slammed by Rachel Maddow](#) after activists with [Tar Sands Blockade](#) filmed what appear to be paper towels being used to clean up the spill.

Residents in the area have also [started to file health complaints](#), reported HuffPost's Lynne Peeples.

In an odd turn of events, ExxonMobil was [presented with a safety medal](#) by the National Safety Council days after the spill.

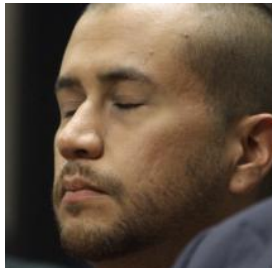
"We hold this award in high esteem because it recognizes the deep commitment of our company and our people to a culture of safety," Exxon CEO Rex Tillerson said at the awards ceremony.

Some environmentalist groups including the Sierra Club and 350.org have [asked President Obama to delay any decision](#) on the Keystone XL pipeline pending further investigation into the spill.

by Taboola



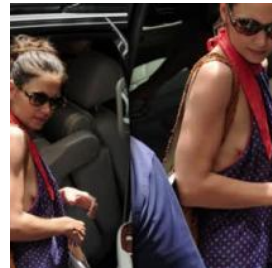
Why Anderson Cooper's Talk Show Got Cancelled



New Evidence in Trayvon Martin Case Could Exonerate George Zimmerman



Ryan Lochte Stars in his Own Reality Show
E Online



Celebrities Who've Gone Braless



Outrage as Teen Mom Farrah Abraham Admits to Waxing Her 3-Year-Old's Eyebrows

The New York Times

April 11, 2013

Environmental Questions Take Back Seat at Confirmation Hearing for E.P.A. Nominee

By **JOHN M. BRODER**

WASHINGTON — Most of the biggest challenges facing the [Environmental Protection Agency](#) — [climate change](#), major new regulations on power plant emissions, [biofuels](#) production and enforcement of clean air and water laws — were virtually absent from Thursday’s confirmation hearing for [President Obama](#)’s nominee to head the agency, [Gina McCarthy](#).

Instead, Republicans on the [Senate Environment and Public Works Committee](#) repeatedly returned to relatively arcane disputes over e-mail accounts used by top officials at the agency, whether the department had made public all the research data used in writing past regulations and whether it had pursued a litigation strategy that bypassed state environmental officials.

Ms. McCarthy, 58, is currently director of the agency’s Office of Air and Radiation and has had limited responsibilities in the areas singled out by Republicans on the committee. Unlike Mr. Obama’s recently departed E.P.A. administrator, [Lisa P. Jackson](#), and several other predecessors, Ms. McCarthy did not have a second agency e-mail account under an alias or use a private e-mail account to help weed out the hundreds of thousands of unsolicited e-mails that pour in each year.

Republicans have been pursuing the use of secondary e-mail accounts and aliases at the agency since last year, calling it an effort by officials to evade federal open records laws. The E.P.A.’s inspector general has opened an inquiry into the matter.

(Ms. Jackson used “Richard Windsor” for her alias on a second e-mail account, after a New Jersey township where she lived and her family dog. [Christie Whitman](#), the E.P.A. administrator under President George W. Bush, used “ToWhit.” And Marcus Peacock, a former deputy administrator, used “Tofu.”)

Although Ms. McCarthy did not have a second agency e-mail account or an alias, [Senator David Vitter](#), Republican of Louisiana, the panel’s senior Republican, nonetheless denied she had ever used a personal e-mail account to conduct agency business. She said she occasionally e-mailed agency documents to her personal account so she could look them up.



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them at her family home in Boston. But she insisted she had stored nothing official in that account and that all documents had been returned to agency files and were discoverable under the Freedom of Information Act and the Federal Records Act.

Mr. Vitter followed up. "Have you ever used E.P.A. instant messaging accounts?"

Ms. McCarthy replied, "One good thing about being 58 is I don't even know how to use them."

Senator Bernard Sanders, independent of Vermont, tried to turn the hearing into a seminar on global warming but few of his colleagues on either side of the aisle were willing to engage.

"Really, this is not a debate about Gina McCarthy," Mr. Sanders said in his opening remarks. "It is a debate about global warming and whether or not we're going to listen to leading scientists who are telling us that global warming is the most serious planetary crisis that we and the global community face and whether we're going to face that crisis in a serious manner."

He noted that a Republican colleague on the panel, Senator James Inhofe of Oklahoma, had declared that global warming was "one of the major hoaxes ever perpetrated on the American people by Al Gore, the United Nations and the Hollywood elite."

At that point, violating Senate protocol, Mr. Inhofe piped up to say, "I'd add to that list MoveOn.org, George Soros, Michael Moore and a few others."

Later, Ms. McCarthy, a former state environmental regulator under Republican and Democratic governors in Connecticut and Massachusetts, including Mitt Romney, said that the science supporting global warming was overwhelming. She said that the E.P.A. would continue to address climate change under her leadership through what she described as common-sense regulations.

The committee has not scheduled a vote on Ms. McCarthy's nomination.



Daily News

Despite Tough Questions, GOP Expects Senate To Confirm EPA's McCarthy

Posted: April 11, 2013

Republicans say they expect the Senate to confirm Gina McCarthy, the head of EPA's air office and the Obama administration's nominee to lead the agency, despite their concerns over the agency's lack of transparency and the cost of the agency's climate change and other regulatory policies.

"I've heard from some that you will be a distinct change from your predecessor. That you are data driven and practical," Sen. Jeff Sessions (R-AL) told McCarthy at her April 11 confirmation hearing before the Senate environment committee.

"But I am mindful that you are the principle architect of boiler [Maximum Achievable Control Technology (MACT) standard], utility MACT, the greenhouse gas (GHG) rules, the ozone and [particulate matter] standards and the cross state air rule" he added.

Given those rules, and the cost of compliance particularly for small businesses, "I just hope that if you are selected for this position and confirmed -- and it looks like you will be -- then I think we need to consider" the effects of these rules on companies and businesses, Sessions added.

In response to questions from lawmakers, McCarthy said she would, if confirmed, "let the law, the science, transparency, accountability and cost-benefit [analysis] guide my judgment."

While McCarthy's guiding principles are broader than those of former Administrator Lisa Jackson, who vowed to be guided by law and science, McCarthy made few major commitments to senators -- though she strongly hinted the agency is likely to revise its GHG new source performance standard (NSPS), which currently sets a single standard for new coal and gas-fired power plants, to bifurcate requirements.

Several senators, including Democrats, have called for EPA to reconsider its approach, saying it would be highly unlikely for new coal plants to meet the standard.

McCarthy told Sen. James Inhofe (R-OK) that in choosing to combine the NSPS for coal and natural gas power plants, the agency made a political decision that it was best to set a single standard. But she said that the issue had been raised extensively in some of the 2.7 million comments filed on the rule. "I assure you we are going to take that comment into consideration," McCarthy said.

The nominee also assured Sen. Roger Wicker (R-MS) that she would continue to provide flexibility to municipalities struggling to finance water infrastructure upgrades to comply with Clean Water Act (CWA) requirements, particularly the agency's integrated planning framework that allows municipalities to combine stormwater and wastewater planning.

"I worked for states and local communities and I understand the stress they are under and the need for us to be flexible as well as supportive," McCarthy said.

She also promised Wicker she would consider granting municipalities longer permit terms, a top issue for many utilities.

McCarthy also promised generally to improve EPA relations with the agriculture community. The agency has "bridges to build with the farming community," she said. But she declined requests from Sen. Deb Fischer (R-NE) to support legislation limiting spill response requirements on farms and to prevent creation of a database of agricultural producers.

Committee Vote

The hearing sets the stage for the Senate Environment & Public Works Committee to vote on the nomination before sending the issue to the Senate floor. Though no date has been set for the committee to make its decision, Chairman Barbara Boxer (D-CA) said that she would likely move quickly.

In 2009, the committee approved McCarthy, a former state environmental regulator in Massachusetts and Connecticut for both Republican and Democratic governors, to take the role of assistant administrator of EPA's Office of Air & Radiation. She later cleared the full Senate by unanimous consent -- a point Boxer and other supporters have highlighted.

Democrats on the committee lauded McCarthy for her years of public service, working up from her first job as a local health official to lead state agencies and federal offices, and as Sen. Ben Cardin (D-MD) said, for her reputation of "being true to your word, open and transparent."

While it appears McCarthy will gain Senate approval, it is unclear if Republicans will lend the same level of support as Democrats.

Sen. Roy Blunt (R-MO) has already [placed a hold](#) on the nomination, vowing to prevent the Senate voting on the candidate until the Obama administration announces a "concrete" timeline for completing its long-delayed environmental review of a flood control project in Missouri.

Others have also raised concerns but have stopped short of threatening to block the nomination. Senate GOP leader Mitch McConnell (R-KY) has raised concerns about EPA's GHG rules and some long-delayed disposal permits for coal mines in Kentucky. And Sen. Marco Rubio (R-FL) has said "the conservative movement is not doing its job" unless it wages a fight against McCarthy's nomination.

Republicans on the environment committee are also raising concerns over McCarthy's response to a series of questions concerning transparency efforts by EPA officials laid out in [a letter](#) that Sen. David Vitter (R-LA), the panel's ranking member, and others sent to the agency April 10.

Although McCarthy told lawmakers that in some cases she would need to work with other officials at the agency to develop responses to lawmakers' specific concerns, she said the administration "is fully committed to transparency and I am personally . . . if there is something we aren't doing to get you data that should be available to you then we will take those steps."

Of particular concerns for lawmakers were EPA's use of personal email accounts and instant messaging to conduct agency business as was done by former Administrator Lisa Jackson; EPA's recent release under a Freedom of Information Act request filed by environmentalists of confidential information; the failure by EPA to provide certain data to committee members; and the practice of entering into settlement agreements with environmentalists that do not take into account the interests of other parties.

"We've been very specific about what we think you are not doing," Vitter said, adding that McCarthy's response to the letter failed to address more than three-and-a-half of the five issues raised.

McCarthy responded that she has not used personal email for agency business, and that "one good thing about being 58 is that I don't know how to use instant messenger." Further she added, while she couldn't speak for other offices, the air office generally does allow comment from stakeholders on settlement agreements before they are finalized because of requirements in the Clean Air Act.

McCarthy's Priorities

In her [written testimony](#), McCarthy also indicated a continued administration commitment to seek changes to the Toxic Substances Control Act (TSCA) to help the agency better regulate chemicals.

Lawmakers are at odds over how to amend the law, with Democrats and environmentalists rallying behind [a bill](#) by Sen. Frank Lautenberg (D-NJ) that was reintroduced yesterday and seeks strict standards for chemicals to enter commerce, while Republicans and industry are backing a yet-to-be introduced measure from Vitter.

"If I am confirmed, I look forward to working with the Members of this Committee from both sides of the aisle to reauthorize our antiquated chemical safety laws so that they provide a clear, fair set of rules for industry and certainty for consumers that their products are safe," McCarthy said.

McCarthy said she will also work to protect water supplies from emerging contaminants and, consistent with President Obama's recent calls, "take steps to combat climate change."

"I am convinced that those steps can and must be pursued with common sense," McCarthy told the committee, pointing to EPA's

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Despite Tough Questions, GOP Expects Senate To Confirm EPA's McCarthy

recently revised fuel standards as an example of how the issue should be addressed. "And I firmly believe they can produce not only benefits for public health, but also create markets for emerging and new technologies and new jobs." -- *Jenny Hopkinson* (jhopkinson@iwpnews.com)

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AgriLife TODAY

Buck Creek watershed effort earns Texas Environmental Excellence Award

April 11, 2013

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VERNON – A 10-year effort by Texas A&M AgriLife Research on the Buck Creek watershed will end this month and be recognized with a Texas Commission on Environmental Quality Texas Environmental Excellence Award for agriculture in May.

Buck Creek was listed as being impaired by the Texas Commission on Environmental Quality due to elevated bacteria levels in 2000 after it was determined the stream did not meet all Texas Surface Water Quality Standards, according to Phyllis Dyer, AgriLife Research's Buck Creek watershed coordinator.

But it wasn't until 2003 that Dr. John Sij, former AgriLife Research agronomist, stepped up to see if there was a way for researchers to help determine the problem and find answers.

In 2004, the Texas Water Resources Institute Buck Creek Watershed



(http://agrilifecd3.tamu.edu/wp-content/uploads/2013/04/DSC_0113.jpg)

Phyllis Dyer, research associate with Texas A&M AgriLife Research at Vernon, takes a final water sample from Buck Creek as Partson Muvumba, also a research associate, looks on. (Texas A&M AgriLife Research photo by Kay Ledbetter)



<http://www.youtube.com/watch?v=e4OhRNGXZcQ>) Partnership was funded by the Texas State Soil and Water Conservation Board through federal Clean Water Act 319 funds by the U.S. Environmental Protection Agency, Dyer said.

That is when Dyer was hired to begin water quality monitoring in the creek. Nine years later, all the water quality samples have been taken, data has been analyzed and the creek has been removed from the list of impaired water bodies, she said.

The Buck Creek team will receive their award at a banquet May 1 during the Environmental Trade Fair and Conference in Austin. The Texas Environmental Excellence Awards celebrate the efforts of citizens, communities, businesses and organizations to preserve and protect the Texas environment and are presented annually to spotlight the state's highest achievements in nine different categories.

Dyer said this truly was a partnership effort. Over time, landowners became involved and voluntarily made changes in their land management practices.

The changes were due to research efforts, education and workshops provided by AgriLife Research, the Texas State Soil and Water Conservation Board, Texas A&M AgriLife Extension Service, Texas Water Resources Institute, Red River Authority, the Texas Department of Wildlife, the U.S. Department of Agriculture and local soil and water conservation districts that together form the Buck Creek Watershed Partnership, she said.

Together the group identified issues, including specific sources of bacteria, and alternatives were evaluated for restoring the creek, said Dr. Paul DeLaune, AgriLife Research environmental soil scientist at Vernon. This was the framework for a watershed protection plan that was developed and recently finalized to provide a guideline to maintain a healthy watershed in the future.

Located in the sub-watershed of the Lower Prairie Dog Fork of the Red River, Buck Creek is an unclassified stream that originates in Donley County near Hedley and runs east-southeast through Collingsworth and Childress counties before entering the southwestern corner of Harmon County, Okla., where it empties into the Red River.

For more information on the efforts to restore water quality in Buck Creek and to read the complete water quality success story from EPA, visit <http://buckcreek.tamu.edu> (<http://buckcreek.tamu.edu/>) .



(http://agrilifecdn3.tamu.edu/wp-content/uploads/2013/04/DSC_00

Solar-powered water wells are one way landowners pulled livestock away from the creek banks to prevent further contamination. (Texas A&M AgriLife Research photo by Kay Ledbetter)

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EPA proposes loosening natural-gas storage standards

By Julian Hattem - 04/11/13 01:32 PM ET

After pushback from outside groups, the federal government is proposing to relax its rules on tanks used to store liquids at oil and natural-gas production sites.

In a proposal to be published in the *Federal Register* on Friday, the Environmental Protection Agency (EPA) [is offering to loosen](#) storage vessel standards that are part of year-old oil-and-gas regulations.

The original rules, issued in April 2012, instituted the first federal standards to reduce air emissions at hydraulic fracturing wells, among other measures.

The rules also included measures to regulate the storage tanks, which can emit toxic air pollutants and ozone-forming volatile organic compounds, mandating they control those compound emissions by 95 percent.

After issuing the rule, however, outside groups petitioned the agency to reconsider aspects related to the large tanks and containers used to store oil and gas liquid before it is sold or moved to a pipeline.

The agency received petitions from both industry and environmental groups, including heavyweights like the American Petroleum Association, the American Natural Gas Association and the Gas Processors Association. A coalition of environmental groups including the Natural Resources Defense Council and the Sierra Club also petitioned the agency.

The EPA's proposed revision would adjust the requirements for existing tanks, streamline some monitoring requirements and propose an alternative standard for storage vessels that have proven able to control their emissions.

The agency admits in the proposal that it had underestimated the number of affected storage tanks. Because it predicts there will not be enough control equipment available for companies to meet the compliance deadline of Oct. 15, 2013, the new rule would push that date back.

The proposed rule would also narrow the container definition so as not to unintentionally include fuel tanks and similar vessels, just those holding crude oil and hydrocarbon liquids.

According to agency analysis, there are about 970 storage tanks installed every month, and more than 20,000 constructed or modified since August 2011.

Source:

<http://thehill.com/blogs/regwatch/energyenvironment/293343-epa-proposes-loosening-natural-gas-storage-standards->

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Source: Daily Environment Report: News Archive > 2013 > April > 04/12/2013 > News > Climate Change: Environmental Groups Will Consider Lawsuit If EPA Misses Deadline for Power Plant Rule

71 DEN A-2

Climate Change

Environmental Groups Will Consider Lawsuit If EPA Misses Deadline for Power Plant Rule



By Andrew Childers

Environmental groups will be considering filing a lawsuit to compel the Environmental Protection Agency to issue its final carbon dioxide performance standard for new fossil fuel-fired power plants if the agency misses the statutory April 13 deadline, as expected.

David Doniger, policy director of the Natural Resources Defense Council's Climate Center, told BNA April 11 that environmental groups are expected to begin discussions on filing a lawsuit in federal District Court after the April 13 deadline passes.

"They've been pretty candid about saying there's going to be a delay," he said. "We don't know how long a delay is contemplated."

EPA proposed its new source performance standard for carbon dioxide emissions from new fossil fuel-fired power plants April 13, 2012, and Clean Air Act Section 111 requires the agency to finalize the rule within one year. However, EPA has not yet sent the final rule to the White House Office of Management and Budget for review, typically the last step before it is published in the *Federal Register*.

EPA spokeswoman Alisha Johnson told BNA April 11 that the agency is still working on the final rule but "no timetable has been set."

Rule a Priority

The rule is a priority for many environmental groups because finalizing it will trigger a Clean Air Act requirement to regulate emissions from existing power plants as well, the largest sources of greenhouse gas emissions.

"It's very important they get it done," Doniger said.

The environmental groups would first have to file a 60-day notice that they intend to sue the agency for missing the statutory deadline. Doniger said he hopes the agency would be able to finalize the rule in that period and avoid any litigation.

"It is EPA's responsibility under the law to protect human health and the environment from the clear and present danger of carbon pollution and the solutions are at hand," Vickie Patton, general counsel of the Environmental Defense Fund, told BNA in an April 11 email.

EPA proposed a new source performance standard of 1,000 pounds of carbon dioxide per megawatt-hour for all new fossil fuel-fired power plants in April 2012 (77 Fed. Reg. 22,392). Unlike past performance standards, the proposed rule would require all new units to meet that standard regardless of fuel type. While EPA anticipates most new combined-cycle natural gas power plants would be able to meet the standard with no additional controls, it would require new coal-fired units to invest in expensive carbon capture systems.

Gina McCarthy, EPA assistant administrator for air and radiation and President Obama's nominee to head the agency, in February said her office is working on the final rule "at a pace that allows us to be deliberative" but indicated the agency may miss the deadline (40 DEN A-20, 2/28/13).

During a Senate and Environment and Public Works Committee confirmation hearing April 11, McCarthy said the agency had considered setting separate emissions limits based on fuel type but

BNA Snapshot

Power Plant Carbon Dioxide Performance Standard

Key Development:

Environmental groups will consider filing a lawsuit to compel EPA to finalize its carbon dioxide power plant rule if it misses the April 13 deadline.

made a policy decision to set a single performance standard. She said the agency will consider comments on that decision when it issues the final rule (see related story).

EPA agreed to issue the power plant performance standard as part of a 2010 court settlement with several states and advocacy groups, including the Natural Resources Defense Council (*New York v. EPA*, D.C. Cir., No. 06-1322, *settlement reached* 12/23/10).

'Transitional Sources' Worried About Deadline

Missing the deadline also raises concerns for companies building new power plants. As part of the proposal, power plants that began construction by April 13, 2013—so-called “transitional sources”—would not be subject to the proposed performance standard.

Eric Groten, a partner at Vinson & Elkins LLP, said power companies have concerns about EPA issuing a final rule that would establish that deadline retroactively.

“It would be at best awkward for EPA to be adopting something after April that maintains a transitional source [deadline] that expired prior to the adoption of the rule,” he told BNA April 11.

The transitional source deadline would only affect approximately a dozen power plants, Groten said.

Utility groups have asked EPA to withdraw and repropose the performance standard to include separate emissions limits based on fuel type (53 DEN A-1, 3/19/13).

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Source: Daily Environment Report: News Archive > 2013 > April > 04/12/2013 > News > Drilling: Court Requires More Specificity in Allegation Of Contamination From Gas Well Operations

71 DEN A-6

Drilling

Court Requires More Specificity in Allegation Of Contamination From Gas Well Operations



By Alan Kovski

A federal judge has issued an opinion and order requiring plaintiffs to clarify their claims against three companies accused of contaminating a water well with methane gas, but the judge would not dismiss the case, as requested by one defendant (*Magers v. Chesapeake Appalachia LLC*, N.D. W.Va., No. 5:12-cv-49, *opinion and order* 4/10/13).

Judge Frederick Stamp of the U.S. District Court for the Northern District of West Virginia issued the opinion April 10.

The lawsuit was brought by Jeremiah Magers and Andrea Magers against two natural gas exploration and production companies, Chesapeake Appalachia LLC and CNX Gas Co. LLC, and one gas transportation company, Columbia Gas Transmission LLC.

The plaintiffs, husband and wife owners of land in Marshall County, W.Va., said the methane pollution in their water only began showing up after the start of gas drilling and storage by the three companies operating on adjacent land. Chesapeake had drilled into the Marcellus Shale, while CNX had drilled shallow gas wells, and Columbia stored gas in wells.

Columbia argued that the case should be dismissed under Rule 12(b)(6) of the Federal Rules of Civil Procedure because the plaintiffs had failed to offer a clear statement of their claim. In particular, the plaintiffs lumped together three companies, each with its own operations.

But the judge concluded that the determination of exact responsibilities for contamination could be left to a discovery phase. For the statement of a claim, the judge ordered the plaintiffs to submit a more definite statement to "include more succinct allegations against each of the defendants individually based upon their individual alleged contribution to the plaintiffs' claimed injury."

State Law, Federal Venue

Jeremiah and Andrea Magers originally sued in state court, because their claim was—and remains—that the companies violated West Virginia law by failing to provide the plaintiffs with an alternate water supply or to compensate them for the contamination and their costs in purchasing water.

Chesapeake Appalachia, a unit of Chesapeake Energy Corp., successfully argued for removal of the case to the U.S. District Court for the Northern District of West Virginia.

Chesapeake won the transfer to federal court by citing 28 U.S.C. Section 1332 that specifies federal court as the court of original jurisdiction for cases where the amount of money in controversy exceeds \$75,000 and the dispute is between citizens of different states. Chesapeake is based in Oklahoma, and the request for compensatory damages alone could well exceed \$75,000, Chesapeake said. In addition, the plaintiffs seek unspecified punitive damages.

The U.S. district court judge has encouraged the parties to settle their differences through negotiation. He also has set a schedule calling for amended pleadings by Sept. 30, discovery by Nov. 25, motions by Dec. 9, a pretrial conference or last settlement conference Feb. 10, and jury selection for Feb. 25.

BNA Snapshot

Magers v. Chesapeake Appalachia LLC, N.D. W.Va., No. 5:12-cv-49, 4/10/13

Key Provision: Court refuses to dismiss case but requires more specificity in allegations over pollution.

What's Next: Plaintiffs must submit succinct allegations against each of three corporate defendants for methane pollution claims.

For More Information

The memorandum opinion and order in *Magers v. Chesapeake Appalachia LLC* is available at <http://op.bna.com/env.nsf/r?Open=smiy-96nnbw>.

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Daily News

House GOP Willing To Revise Coal Ash Bill To Reflect EPA Calls For Clarity

Posted: April 11, 2013

House GOP lawmakers are signaling they may be open to revising legislation aimed at circumvented EPA's pending coal ash disposal rule with state-crafted permit programs, after the agency's top waste official raised concerns that several provisions of the bill need greater clarity -- such as how much oversight power EPA would have under the bill.

"I don't think any of us are afraid to make changes to the legislation," Rep. David McKinley (R-WV) told EPA waste chief Mathy Stanislaus at an April 11 hearing of the House Energy & Commerce Committee's environment panel. The subcommittee discussed [draft legislation](#) that mirrors a Senate bill from last year that would authorize a coal ash disposal permit program run by states as an alternative to EPA finalizing its pending coal ash rule.

Stanislaus several times during the hearing in response to questions from Republican panel lawmakers said that while the agency is not taking a position on [the draft legislation](#), EPA is willing to cooperate with the subcommittee to provide further input on a host of issues where the agency believes additional clarity is needed.

"I think it would be helpful for my staff to work with your staff" on those issues, Stanislaus told panel Chairman Rep. John Shimkus (R-IL), responding to a question on how to address EPA's calls for clarity.

Despite the GOP's suggestion of working with the agency for clarifications in the bill, Democratic lawmakers and environmentalists at the hearing criticized the proposal. Rep. Henry Waxman (D-CA), ranking member on the full energy committee, said the bill language was "exhaustively analyzed" in a recent Congressional Research Service (CRS) report and "found severely wanting." He added that EPA and CRS input is crucial to moving coal ash legislation. "Their views must not be dismissed" or Congress may end up "gridlocked on a stale proposal," Waxman said.

CRS March 19 released a report listing unanswered questions about the efficacy and regulatory impacts of the legislation and the state standards under the bill. Environmentalists say the study -- which updates a Dec. 5 report that also found potential flaws with the bill -- signals hurdles that might further dampen the bills' prospects.

At the hearing, Lisa Evans, senior counsel for Earthjustice, reiterated long-running concerns over the bill, noting it would effectively eliminate EPA's authority to set federal standards for coal ash disposal, and saying the draft is "so vague that there are no minimum federal standards that EPA can use" to evaluate state programs.

The bill -- which has not been formally introduced -- mirrors S. 3512 introduced in the 112th Congress by Sens. John Hoeven (R-ND) and Max Baucus (D-MT). The identical bills, known as the "Coal Ash Recycling and Oversight Act" would authorize a coal ash disposal permit program run by states that would allow disposal sites under "solid waste" Resource Conservation & Recovery Act (RCRA) requirements. The state programs would be similar to how states regulate municipal solid waste, rather than more stringent RCRA hazardous waste rules.

[Stanislaus indicated at the hearing](#) that EPA will not finalize its rule anytime soon. In response to questioning from Shimkus, Stanislaus said during the hearing that the agency does not expect to begin crafting a timeline for the rule until at least another six months as it sifts through public comments and additional data.

The draft House legislation could preempt the agency's pending regulation if Congress were to approve the bill, and the president to enact it, ahead of the rule's release. The bill has several differences from a competing House measure McKinley introduced last year. For example, McKinley's bill in the 112th Congress did not include provisions for ash pond lining and enclosure requirements, and groundwater monitoring included in the Senate bill.

EPA Oversight

During the hearing, Shimkus also asked whether the legislation gives “EPA a proper watchdog role?”

Stanislaus answered that the parameters of such a role is one of the areas in which EPA believes it can provide technical assistance to the panel.

While Stanislaus acknowledged that EPA in many circumstances relies on state-run RCRA programs and indicated that EPA supported the intent of the bill language “to put in place permanent standards, assuming clarifications can be made,” he identified both in remarks to lawmakers and in prepared testimony a number of issues in the legislation where the agency thinks lawmakers should clarify the bill.

For example, Stanislaus said in response to questions from Rep. Bob Latta (R-OH) that additional clarity on the provisions in the legislation that would set minimum standards for ensuring the adequacy of liners for impoundments and for regulating fugitive dust from disposal is necessary, and that the bill language is a “bit ambiguous to us” on the universe of disposal units that the bill is proposing to subject to state permits.

In his prepared testimony, Stanislaus also said the legislative language does not “clearly address timelines for the development and implementation of state programs, criteria for EPA to use to determine when a state program is deficient,” criteria for structural integrity, or deadlines for closure of unlined or leaking pits.

Republicans sought to highlight that the bill would at least establish a regulatory framework for regulating coal ash disposal, set minimum environmental standards, and preserve a “backstop authority” role for EPA by allowing the agency to take over a permitting program if the state rules were shown to be inadequate.

“What I like about the bill is that [states] would have to have a minimum standard or EPA does take over,” McKinley said at the start of the hearing.

But Rep. Paul Tonko (D-NY), ranking Democrat on the environment panel, noted that EPA last year highlighted a number of “shortcomings” in McKinley’s bill.

“There are areas where we’d like to work with the panel further,” Stanislaus said, adding that those included that the structural integrity requirements may not be sufficient because they do not address the full volume of liquids that can safely be stored, how wet impoundments would be addressed and other provisions.

Meanwhile, Susan Parker Bodine, of the law firm Barnes and Thornburg, during the hearing pointed to EPA’s struggles to develop a defensible risk assessment for potential human health effects of coal ash, saying that the agency has thus far been unable to provide the scientific support for regulating coal ash under RCRA subtitle C. The legislation “may be the only way we’re going to get a standard for coal ash,” she said.

States' Support

At the hearing, Alabama and Tennessee state regulators testified in support of the legislation, saying it would provide ample guidance for state regulators to develop their own permitting programs.

States have broadly supported measures that would allow them to oversee their own coal ash disposal regimes under subtitle D RCRA rules, and the Environmental Council of the States (ECOS), which represents state environmental commissions, twice passed resolutions supporting state primacy over coal ash disposal.

In response to a question from Shimkus over whether the draft bill sets an ample “baseline for coal ash regulation” Tennessee Department of Environment and Conservation Commissioner Robert Martineau, Jr, [testifying on behalf of ECOS](#), said the draft “covers all the key elements for groundwater protection, structural integrity” and other requirements.

Martineau during his testimony also addressed components of the March 19 CRS report that lists unanswered questions about the efficacy and regulatory impacts of the legislation, saying that states supported the CRS report’s observation that the bill lacked timetables for implementation.

In response to a question from Latta on what states would consider an appropriate timeline, Martineau said it would take about two years to set up the permit process, and several years to begin issuing the permits. Stephen Cobb, of Alabama Department of Environmental Management, added that three to four years would be appropriate.

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House GOP Willing To Revise Coal Ash Bill To Reflect EPA Calls For Clarity

But Martineau took issue with other parts of the CRS report, saying its implication that a lack of direct EPA oversight would make states less likely to adopt the permitting, is not the case in most states. "The bill allows states to request EPA's assistance when needed, which meets our needs," Martineau said. -- *Bridget DiCosmo* (bdicosmo@iwpnews.com)

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